

REMARKS

Prior to this communication, claims 1 – 26 were pending. In response, Applicants have amended claim 1, cancelled claims 10 – 26, and added claims 27 – 40, thus leaving claims 2 – 9 unchanged. Examination and reconsideration in view of the amendment and remarks contained herein are respectfully requested.

The Examiner has identified in the application the following patentably distinct inventions:

I. Claims 1 – 9, drawn to a subcombination support, classified in class 410, subclass 77.

II. Claims 10 – 20, drawn to a combination wheeled trailer, classified in class 280, subclass 400+.

III. Claims 21 – 24, drawn to a vehicle frame assembly, classified in class 296, subclass 193.07.

IV. Claims 25 – 26, drawn to a method of loading, classified in class 414, subclass 809.

The Examiner has required election of one of the inventions for prosecution. In response to the restriction requirement, Applicants confirm their provisional election to prosecute Group I (claims 1 – 9) and cancel the claims of Groups II, III, and IV (claims 10 – 26). Applicants reserve the right to file divisional applications directed to the non-elected claims at a later date.

The Examiner objected to the drawings for failing to include reference “130” discussed on page 6 of the specification. In response, Applicants have amended the third paragraph of page 6 to correct a typographical error. Particularly, the term “axis 130” has been replaced with “axis 130” in the third paragraph of page 6 to correspond to element 130’ of FIG. 4B.

The Examiner also objected to the disclosure due to informalities. In response, Applicants have amended the respective paragraphs to correct typographical errors. Particularly, in the specification, the first paragraph of page 2, the first paragraph of page 5, the second paragraph of page 5, the third paragraph of page 6, the fourth paragraph of page 8, and the third paragraph of page 11 have been amended to correct typographical errors.

The Examiner rejected claims 1, 2, and 7 – 9 under 35 U.S.C § 102(b) as being anticipated by U.S. Patent Number 5,957,350 (“Giles”). The Examiner indicated that “Giles teaches a support structure for a transport vehicle including a frame base 32+, a stanchion 24, 28+, and a cylindrical roller 20.” (Page 3, Action.)

The Examiner also rejected claims 1, 3, and 5 – 6 under 35 U.S.C § 102(b) as being anticipated by U.S. Patent Number 4,997,332 (“Johnson”). The Examiner indicated that “Johnson (figure 3) teaches a support structure for a transport vehicle including a frame base 46+, a stanchion 56, 58+, and a cylindrical roller 70.”

In response, Applicants amended claim 1. Amended claim 1 requires, among other things, “a supporting pad spaced a non-zero distance below the cylindrical roller, and configured to have a first position in which the supporting pad supports one of the at least two legs, and a second position in which the supporting pad is removed from the one of the at least two legs.” Neither Giles nor Johnson teaches or fairly suggests a supporting pad as required by claim 1. Applicants note that element 34 disclosed in Giles is a “rigid backing.” (Col. 5, line 1, Giles) Giles does not teach or fairly suggest that the rigid backing can be configured to have “a first position in which the supporting pad supports one of the at least two legs, and a second position in which the supporting pad is removed from the one of the at least two legs,” as required by claim 1. Therefore, claim 1 contains patentable subject matter, and is allowable.

Claims 2 – 9 depend from claim 1, and therefore, contain patentable subject matter for at least the reasons set forth above with respect to claim 1.

The Examiner also rejected claims 4 and 6 under 35 U.S.C § 103(a) as being unpatentable over Johnson.

To establish a *prima facie* case of obviousness, three basic criteria must be met. *M.P.E.P.* § 706.02(j), and 2143.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be both found in the prior art, not in applicant’s disclosure. *Id. See also In re Rougget*, 149 F.3d 1350, 1355 (Fed. Cir. 1998) (“To reject claims in an application under section 103, the Examiner must show an un rebutted *prima facie* case of obviousness. In the absence of a proper *prima facie* case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent.”)

As discussed above, Johnson does not teach or fairly suggest , among other things, “a supporting pad spaced a non-zero distance below the cylindrical roller, and configured to have a first position in which the supporting pad supports one of the at least two legs, and a second position in which the supporting pad is removed from the one of the at least two legs.” as required by claim 1. Johnson therefore does not teach or fairly suggest all limitations required by claim 1. Claims 4 and 6 depend from allowable claim 1, and thus contain patentable subject matter.

Applicants have also added claims 27 – 40 that include additional patentable subject matter which may be allowable for one or more of the reasons set forth above with respect to claim 1, and/or for additional reasons not discussed herein. Particularly, independent claim 27 is directed to a support structure for supporting a pre-formed concrete section that has a deck and at least two legs for transport on a transport vehicle. The support structure requires, among other things, “a cylindrical roller connected to the upper end and supported by the stanchion for rotational movement relative to the stanchion about a rotational axis substantially parallel to the base plane and substantially perpendicular to the stanchion axis, one of the legs of the concrete section intersecting the deck at an inner corner, the cylindrical roller adapted to support the concrete section at the inner corner.” Claims 28 – 34 depend from claim 27.

Newly added independent claim 35 is directed to a support structure for supporting a pre-formed concrete section that has a deck and at least two legs for transport on a transport vehicle. Among other things, the support structure requires a supporting pad positioned a vertical distance below the cylindrical roller, and supported for movement between a first position in which the supporting pad supports one of the at least two legs, and a second position in which the supporting pad does not support the one of the at least two legs. Claims 36 – 40 depend from claim 35.

No new matter has been added.

CONCLUSION

Entry of the Amendment and allowance of claims 1 – 9, and 27 – 40 are respectfully requested. The undersigned is available for telephone consultation at any time during normal business hours.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David B. Smith", with a stylized, flowing script.

David B. Smith
Reg. No. 27,595

Docket No.: 049220-9005-00
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, Wisconsin 53202-4108
414.271.6560

T:\clienta\049220\9005\F0207346.1